

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Kevin Fullre,
5 Plaintiff

6 v.

7 State of Nevada, et al.,
8 Defendants
9

2:17-cv-02889-JAD-NJK

Order Dismissing Case

[ECF No. 1]

10 Pro se petitioner Kevin Fullre filed an application to proceed *in forma pauperis*, but he
11 failed to file an accompanying complaint.¹ Magistrate Judge Koppe ordered Mr. Fullre to file a
12 complaint by December 21, 2017, and warned him that failure to do so may result in his case
13 getting dismissed.² That deadline has passed and Fullre has still not filed a complaint.

14 District courts have the inherent power to control their dockets and “[i]n the exercise of
15 that power, they may impose sanctions including, where appropriate, . . . dismissal” of a case.³ A
16 court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a
17 court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action
18 for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the
19 court must consider several facts: (1) the public’s interest in expeditious resolution of litigation;
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21 ¹ See generally docket report case no. 2:17-cv-02889-JAD-NJK.

22 ² ECF No. 3.

23 ³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

24 ⁴ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
25 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
26 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439,
27 1440–41 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v.*
28 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to
comply with local rules).


1 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the
2 public policy favoring disposition of cases on their merits; and (5) the availability of less drastic
3 alternatives.⁵

4 I find that the first two factors weigh in favor of dismissal. The risk-of-prejudice factor
5 also weighs in favor of dismissal because a presumption of injury arises from the occurrence of
6 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.⁶ A court's
7 warning to a party that failing to obey the court's order will result in dismissal satisfies the
8 consideration-of-alternatives requirement,⁷ and Fullre was expressly warned that dismissal could
9 result if he failed to file a complaint by December 21, 2017. Although the fourth factor weighs
10 against dismissal, it is greatly outweighed by those favoring dismissal.

11 Accordingly, IT IS HEREBY ORDERED that this **action is DISMISSED** without
12 prejudice to Fullre's ability to file a complaint in a new, separate case.

13 IT IS FURTHER ORDERED that Fullre's application to proceed *in forma pauperis*
14 [ECF No. 1] is **DENIED as moot**.

15 DATED: January 2, 2018.

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17 U.S. District Judge Jennifer A. Dorsey
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25 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*,
26 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

27 ⁶ *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

28 ⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.